

**REMARKS**

The Examiner's Action mailed on March 10, 2004 has been received and its contents carefully considered.

In this Amendment, Applicant has cancelled Claims 2 and 15, and has amended Claims 1, 3, 4-7, 10-11, 13-14 and 18-20 without the addition of any new matter. New Claim 21 has been added as a dependent claim without the addition of any new matter. Claims 1, 14 and 18 are the independent claims. Claims 3 and 12 depend upon Claim 1. Claims 4-5 and 8-11 depend upon Claim 3, which depends upon Claim 1. Claim 6 depends upon Claim 4 and Claim 7 depends upon Claim 6. Claims 16-17 depend upon Claim 14. Claim 19 depends upon Claim 18 and Claims 20-21 depend upon Claim 19. Claims 1, 3-14 and 16-21 remain pending in the application with changes thereto as noted above. For at least the following reasons, it is submitted that this application is in condition for allowance.

Initially, it is noted that this Amendment has been prepared using the requested new format. If there are any irregularities in this format, it would be greatly appreciated if the undersigned would be so advised.

**a. Rejection of Claims 1, 10, 14 and 18, under 35 U.S.C. § 102(b)**

The Examiner rejected Claims 1, 10, 14 and 18 under 35 U.S.C. § 102(b), as containing subject matter which was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of this application for patent in the United States. The Examiner states Claims 1, 10, 14 and 18 are rejected under 35 U.S.C. § 102(b) as being anticipated by Ricks, US Patent No. 4,759,139. Re Claims 1, 10 and 14 the Examiner states Ricks '139 discloses an identification device for an infant comprising, in combination an infant

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article, a label and means for coupling (flange) at least a portion of the identification device to the infant article. The Examiner further states the opening of the collar allows users to easily identify the owner of the article. Finally, re Claim 18 the Examiner states Ricks '139 discloses a method for using an identification device for infant comprising the steps of: providing an infant article, coupling a label including personal information of the infant to a portion of the identification device (through the opening the collar); and providing means for coupling at least a portion of the identification device to the infant article.

In response, in order to expedite the prosecution of the subject patent application, Applicant has cancelled Claims 2 and 15 without prejudice or disclaimer. Claim 1 has been amended to incorporate all the features of cancelled Claim 2, and Claim 14 has been amended to incorporate all of the features of Claim 15 to patentably distinguish over Ricks '139, thereby obviating the Examiner's rejections to Claims 1 and 14. Support for the amendments to Claims 1 and 14 are found in the Drawings (see Figs. 1, 1A, 1B and 4) and in the Specification (pages 11 and 14). Initially, it should be noted that the flange of Ricks '139 disclosure is coupled to the collar (see Ricks '139 Fig. 2 and Ricks'139 description of Fig. 3). Ricks '139 states "the identification collar is disposed on a conventional baby bottle" (col. 1, lines 44-46) and includes a generally planar top with a central aperture, and a peripheral flange depending from the perimeter of the top portion (col. 1, lines 57-60). Applicant has amended both Claims 1 and 14 to clearly distinguish over Ricks '139. Claim 1 defines the features of the identification device comprising, in combination, an infant article; a label having a side and an opposite side, the label including personal information of the infant; and a member of the identification device, the member comprising a pair of ends, each one of the ends of the member of the identification device coupled to a portion of the infant article. Claim 14 defines the features of the integral

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identification device comprising, in combination, an infant article; a label coupled to a portion of the integral identification device for providing personal information of the infant; the integral identification device comprising an identification portion of the infant article, the identification portion having a recess for receiving a label; and a retainer coupled to the recess of the identification portion of the infant article for enclosing the label in the recess. The member of the identification device defined by the Applicant does not have a collar with a central aperture (in contrast, Ricks '139 requires the collar to fit over the neck of the baby bottle and is not operable without the top portion of the collar and a difference in diameter of the neck and the body of the baby bottle). In fact, Applicant's member of the identification device does not require differences in diameter of the infant article to couple the member of the identification to a portion of the infant article. Applicant defines each one of the ends of the member of the identification device is coupled to a portion of the infant article. Additionally, Ricks '139 does not define Applicant's integral identification device having the features of the identification portion having a recess for receiving a label; and a retainer coupled to the recess of the identification portion of the infant article for enclosing the label in the recess (see amended Claim 14). Therefore, for the combination of reasons described above, Applicant's Claims 1 and 14 clearly patentably distinguish over Ricks '139.

With respect to Claim 10, Ricks '139 discloses "a protruding ridge defines a closed area on the exterior of the flange adapted to closely receive a gummed label" (col. 1, lines 60-62). Additionally, Ricks '139 states "the closed area may be recessed" (col. 3, lines 4-5, note also the closed area is on the exterior of the flange, away from the surface of the baby bottle, see Ricks' Fig. 1) and "would operate as an impediment to removal of the label by an infant" (col. 3, lines 8-9). In Claim 3, Applicant defines the identification device further comprises a portion of a surface of the member of the identification device

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having a recess for receiving the label; and a retainer coupled to the recess of the member of the identification device enclosing the label in the recess of the member of the identification device. Applicant's recess for receiving the label is in an interior portion of the member enclosed by the retainer and located proximate to the surface of the infant article (see Applicant's Figs. 1A and 1B). Claim 10 has been amended to patentably distinguish over Ricks '139.

Support for this amendment is found in the Drawings (see Figs. 1, 1A, 1B, 2, 2A, 2B, 4, 5 and 5A) and in the Specification (pages 11 and 12). In Claim 10 (which depends upon Claim 3, and which further depends upon Claim 1 and patentably distinguishes over Ricks '139), Applicant defines the identification device wherein a portion of the side of the label received by the recess of the member of the identification device and enclosed by the retainer comprises a visible identifier selected from the group consisting of at least a name of an infant, at least a photograph, at least a finger print and at least a toe print.

Simply stated, the label of Applicant's identification device is received by the recess of the member of the identification device and enclosed by the retainer and not on an exterior of the flange. Additionally, Ricks '139 requires that the label is gummed. Applicant's label does not need to be gummed. Ricks '139 states "in practice, the baby's name is written on label" (col.2, line 34) and is silent regarding anything else which may appear on the label. Applicant defines "a portion of the side of the label ... comprises a visible identifier selected from the group consisting of at least a name of an infant, at least a photograph, at least a finger print and at least a toe print". Ricks '139 label is only imprinted on one side of the label. Applicant's label may be imprinted on both sides of the label. Therefore, for the combination of reasons described above, Applicant's Claim 10 clearly patentably distinguishes over Ricks '139.

Applicant has amended Claim 18 to correspond to the unique features defined in Claim 1 (as described above) and therefore patentably distinguishes over Ricks '139. In particular, the method in Applicant's Claim 18 defines

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providing an infant article; providing a label having a side and an opposite side, the label including personal information of the infant; and providing a member of the identification device, the member comprising a pair of ends, each one of the ends of the member of the identification device coupled to a portion of the infant article, the label coupled to a portion of the member of the identification device. As discussed above, Ricks '139 identification device is inoperable in the manner defined by the Applicant because Ricks '139 requires a collar (member) with a central aperture, a planar top and a flange coupled to the collar, the collar fitting over the neck of the baby bottle (infant article) and the flange (recess) for receiving a gummed label, without providing a retainer coupled to the recess of the member. A method that uses Ricks '139 identification device as defined above (and stated by the Examiner in light of Ricks '139 disclosure) is clearly not Applicant's method of using Applicant's identification device as defined above by the Applicant. Therefore, for the combination of reasons described above, Applicant's Claim 18 clearly patentably distinguishes over Ricks '139.

For the foregoing reasons, it is respectfully submitted that the rejections of Claims 1, 10, 14 and 18, under 35 U.S.C. § 102(b), have been overcome. Withdrawal of the rejections of pending Claims 1, 10, 14 and 18 on this basis is believed to be in order and is courteously requested.

**b. Rejection of Claims 2-5, 8, 9, 12, 13, 15-17 and 19 under 35 U.S.C. § 103(a)**

Claims 2-5, 8, 9, 12, 13, 15-17 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ricks, US Patent No. 4,759,139 in view of Rubin, U.S. Patent No. 4,476,381. Re Claims 2-4, 8, 9, 12, 13, 15-17 and 19, the Examiner admits that Ricks '139 has an identification device that is different from Applicant's claimed structure of an identification device. The

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Examiner states Rubin discloses a patient treatment system and method which provides the patient with a wrist bracelet (identification device) having a variety of labels. In addition, the Examiner states the patient treatment system and method includes a medication (bottle) and the identification device includes a member (clasp) coupling at least a portion of the identification device comprising a pair of ends of said member coupled to a patient (or any articles). Finally the Examiner states "it is obvious to have the identification device to include a transparent and flexible material for a barcode reader ...". As a result, the Examiner concludes "it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to further employ an identification device ... Furthermore, such modification of employing a bracelet type of identification holding device to an article would have been obvious matter of design variation, well within the ordinary skill in the art, and therefore an obvious expedient".

In response, initially, as stated above, in order to expedite the prosecution of the subject patent application, Applicant has cancelled Claims 2 and 15 without prejudice or disclaimer. Therefore, the Examiner's rejection of Claims 2 and 15 is now moot. Claims 3-4, 13 and 19 have been amended to more clearly define the unique and non-obvious features of Applicant's identification device and method.

In particular, Claim 3 has been amended and defines the features of the identification device "further comprises a portion of a surface of the member of the identification device having a recess for receiving the label; and a retainer coupled to the recess of the member of the identification device enclosing the label in the recess of the member of the identification device". Support for the amendment of Claim 3 is found in the Specification (pages 11 and 12) and in the Drawings (see Figs. 1, 1A, 1B, 2, 2A, 2B, 4, 5 and 5A). As discussed above, Ricks '139 is not motivated, does not teach or suggest Applicant's unique feature of a retainer coupled to the recess for receiving the label and

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certainly Rubin '381 is not motivated, does not teach or suggest Applicant's unique feature of a retainer coupled to the recess for receiving the label. Therefore, the Examiner's rejection of Claim 3 based on the obviousness of Ricks '139 in view of Rubin '381 has been obviated.

Claim 4 has been amended, depends upon Claim 3, and therefore has all the limitations of Claim 3, and defines the further features "the member is curved and each one of the pair of ends of the member of the identification device is coupled to a portion of the infant article by tension". Support for Claim 4 is also found in the Drawings (Fig. 4) and in the Specification (page 14). Neither Ricks '139 nor Rubin '381 has a curved member with both a recess and a retainer receiving a label as well as the pair of ends of the member coupled to a portion of the infant article by tension. As discussed above Ricks '139 does not have a pair of ends (Ricks '139 has a collar to fit over the neck of the infant article) and Rubin '381 has a clasp at one end of a bracelet, with the other end of the bracelet having the identification label threaded through the clasp (see Fig. 3A). Even if the clasp of Rubin's '381 disclosure is coupled to a portion of an article, the other end of the bracelet is definitely not coupled to a portion of the article (see Rubin '381, Fig. 3A). In contrast, Applicant shows and describes the pair of ends of the member of the identification device is coupled to the infant article by tension (see Applicant's Fig. 4 and also Applicant's Specification on page 14). Neither Ricks '139 nor Rubin '381 are motivated, teach or suggest Applicant's unique feature with the pair of ends of the member of the identification device coupled to the infant article by tension. Both Ricks '139 and Rubin '381 teach away from Applicant's unique feature in Claim 4.

Claim 5, has been amended, depends upon Claim 3, and therefore has all the limitations of Claim 3, and defines the further feature "at least a portion of the member of the identification device comprising an adhesive; a portion of the member of the identification device adhesively coupled to a portion of the

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infant article". Support for the amendment of Claim 5 is found in the Drawings (Fig. 5) and in the Specification (pages 15-16). Applicant notes that both Ricks '139 and Rubin '381 have the label affixed to the identification device with an adhesive and not a member of the identification device comprising an adhesive, with the member of the identification device adhesively coupled to the infant article. Accordingly, in both Ricks '139 and Rubin '381 a portion of the identification article is not adhesively coupled to a portion of the infant article, but rather the label is adhesively coupled to the identification device and a member of the identification device is not adhesively coupled to the infant article. Neither Ricks '139 nor Rubin '381 are motivated, teach or suggest Applicant's unique feature of at least a portion of the member of the identification device comprising an adhesive; a portion of the member of the identification device adhesively coupled to a portion of the infant article. Both Ricks '139 and Rubin '381 teach away from Applicant's unique features in Claim 5. Therefore, the Examiner's rejection of Claim 5 based on the obviousness of Ricks '139 in view of Rubin '381 has been obviated.

Applicant's original Claims 8 and 9 depend upon Claim 3 which was amended as discussed above to more clearly define the features of the recess of the member receiving the label and the retainer coupled to the member enclosing the label. Both Claims 8 and 9 have all the limitations of Claim 3, so the same discussion applies as to Claim 3 above regarding the lack of teachings, motivation and suggestion of Ricks '139 in view of Rubin '381, thereby obviating the Examiner's obviousness rejections of Claims 8 and 9. Applicant's original Claim 12 depends upon Claim 1 which was amended as discussed above to more clearly define the features of a pair of ends of the member of the identification device with each end coupled to a portion of the infant article. Claim 12 has all the limitations of Claim 1, so the same discussion regarding the lack of teachings, motivation and suggestion of Ricks

'139 in view of Rubin '381 apply, thereby obviating the Examiner's obviousness rejection of Claim 12.

Claim 13 has been amended (depends upon Claim 3, and therefore has all the limitations of Claim 3) and defines the further features "both the member of the identification device having the recess and the retainer of the identification device comprises transparent plastic to provide little opportunity for fluid accumulation in the recess of the member of the identification device thereby protecting the label from destruction by a fluid". Support for the amendment of Claim 13 is found in the Specification (pages 11 and 12).

Neither Ricks '139, Rubin '381 nor Ricks' 139 in view of Rubin '381 teaches, is motivated or suggests protection of the label from destruction by a fluid using a transparent plastic (so that the label may still be visible). In fact both Ricks '139 and Rubin '381 teach away from Applicant's unique features by defining the label to be adhesively affixed to the member (and therefore subject to destruction by a fluid).

Original Claims 16-17 depend upon Claim 14 which was amended as discussed above to more clearly define that the integral identification device has the unique features of the recess of the member receiving the label and the retainer coupled to the member enclosing the label. Both Claims 16 and 17 have all the limitations of Claim 14, so the same discussion applies regarding the lack of teachings, motivation and suggestion of Ricks '139 in view of Rubin '381, thereby obviating the Examiner's obviousness rejections of Claims 16 and 17.

Claim 19 has been amended (depends upon Claim 18, and therefore has all the limitations of Claim 18) and defines the method of using the identification device has the further features of "providing a portion of a surface of the member of the identification device having a recess for receiving the label; and coupling a retainer to the recess of the member of the identification device enclosing the label in the recess of the member of the identification

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device". Claim 19 conforms to the further features of the identification device in the amendment of Claim 3 (discussed above). As discussed above, Ricks '139 is not motivated, does not teach or suggest Applicant's method including the unique feature of a retainer coupled to the recess for receiving the label and certainly Rubin '381 is not motivated, does not teach or suggest Applicant's unique feature of a retainer coupled to the recess for receiving the label. Therefore, the Examiner's rejection of Claim 19 based on the obviousness of Ricks '139 in view of Rubin '381 has been obviated.

Additionally, Applicant notes that Rubin '381 predates Ricks '139 by almost 4 years, so that Ricks '139 certainly had the benefit of Rubin's '381 teachings and additionally, Applicant's disclosure is 15 years after Ricks '139. If it was so obvious for an artisan skilled in the art to combine the teachings of Ricks '139 and the teachings of Rubin '381 to define and use Applicant's identification device for an infant article, Applicant respectfully wonders why did it take so long (i.e., until Applicant teachings)? With respect, Applicant contends that an artisan skilled in the art was not motivated to design or to define Applicant's device. If anything, both Rubin '381 and Ricks '139 teach away from Applicant's specific features. For example, Rubin's '381 clasp (member) does not have a pair of ends, each one of the ends of the member of the identification device coupled to a portion of the infant article. Instead Rubin's '381 clasp clearly is for passing one end of the bracelet (the end with the identification label) through the clasp, thereby securing the bracelet into a generally cylindrical shape (see Rubin's '381 Figs. 1C and 3A). In fact, Rubin '381 describes the bracelet as "a conventional bracelet, having a suitable conventional clasp" (col. 5, lines 46-47). Furthermore, because Rubin '381 is for a patient identification system, Applicant contends Rubin '381 is non-analogous art and neither suggests nor teaches an identification device for an infant article nor a method for using the Rubin '381 identification device for an infant article. Stated simply, according to Rubin's '381 disclosure, Rubin '381

never had an infant article in mind when the Rubin '381 non-analogous art patient identification system was used. Contrarily, Ricks '139 definitely had an infant article in mind for the identification device, but as admitted by the Examiner, Ricks '139 does not have the same device as the Applicant. Yet, Ricks '139 who is a person skilled in the art and had the benefit of Rubin's '318 non-analogous teachings did not make the leap to Applicant's identification device. In fact, Ricks '139 taught away from Applicant's identification device by restricting how the Ricks '139 identification device could be used (i.e., over the neck of the infant article).

Perhaps the Examiner somehow believes that one of ordinary skill in the art could conceivably combine the two cited references (Ricks '139 combined with Rubin '381) to produce Applicants' claimed invention. But the Federal Circuit has held that:

obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. (Emphasis added)

In re Bell, 991 F.2d 781, 783, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993) (citations omitted).

Obviousness is tested by "what the combined teachings of the references would have suggested to those of ordinary skill in the art." (Emphasis added) But it "cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination." (Emphasis added)

In re Fine, 837 F.2d 1071, 1075, 5 U.S.P.Q.2d 1596, 1599 (Fed. Cir. 1988) (citing In re Keller, 642 F.2d 413, 425, 208 U.S.P.Q.871, 881 (C.C.P.A. 1981) and ACS Hosp. Sys. v. Montefiore Hosp., 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984)).

Something in the prior art as a whole must suggest the desirability, and thus the obviousness, of making the combination.

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Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1051, 5 U.S.P.Q.2d 1434, 1438 (Fed. Cir. 1988) (citing Lindemann, Maschinenfabrik GmbH v. American Hoist and Derrick Co., 730 F2d 1452, 1462, 221 U.S.P.Q. 481, 488 (Fed. Cir. 1984)).

Applicant respectfully contends that the Examiner has neither shown a teaching nor suggestion in any one or more of the two cited references or elsewhere of Applicants' claimed identification device to support a conclusion of obviousness.

Applicant respectfully contends that in citing this two reference combination obviousness rejection, the Examiner may have fallen into the common trap of hindsight reconstruction, which has been frequently denounced by the Federal Circuit as inappropriate to support a finding of obviousness.

The obviousness standard, while easy to expound, is sometimes difficult to apply. It requires the decision maker to return to the time the invention was made. "the invention must be viewed not with the blueprint drawn by the inventor, but in the state of the art that existed at the time."

Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1050-51, 5 U.S.P.Q.2d 1434 (Fed. Cir. 1988) (quoting Interconnect Planning Corp. v. Feil, 774 F.2d 1132, 1138, 227 U.S.P.Q. 543, 547-548 (Fed. Cir. 1985)).

It is clear from Applicant's discussion above that, absent the "blueprint" of Applicants' disclosure, the prior art has no suggestion or teaching of Applicants' claimed invention. The Federal Circuit has also stated:

It is improper to use the patent as an instruction manual to lead to elements of the prior art.

Panduit Corp. v. Dennison Mfg. Co., 810 F.2d 1561, 1568 (Fed. Cir. 1987).

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It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious.

*In re Fritch*, 972 F.2d 1260, 1266, 23 U.S.P.Q.2d 1780, 1784 (Fed. Cir. 1992) (citing *In re Gorman*, 933 F.2d 982, 987, 18 U.S.P.Q.2d 1885, 188 (Fed. Cir. 1991)).

It is very clear that Applicants' claimed invention is only rendered invalid for obviousness if the Applicants' claimed invention is used as an instruction manual, or template, for modifying the cited prior art. Absent the knowledge gleaned from Applicants' disclosure, there is no suggestion or teaching in the cited prior art or in the general knowledge in the art to support the Examiner's assertion that Applicants' claimed invention would have been obvious to one of ordinary skill in the art. The Federal Circuit has also stated:

When prior art references require selective combination...to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gleaned from the invention itself.

*Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1051, 5 U.S.P.Q.2d 1434, 1438 (Fed. Cir. 1988) (citing *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 U.S.P.Q. 543, 551 (Fed. Cir. 1985)).

The Examiner has cited no reason for modifying the two cited references (Ricks '138 and Rubin '381) to allegedly achieve Applicants' claimed invention other than the knowledge gleaned from Applicants' disclosure. For this reason, Applicant respectfully contends that the Examiner has failed to establish a *prima facie* case of obviousness based on a combination of these specific two references. To show the invidious nature of hindsight reconstruction, the Federal Circuit has stated:

To imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the

insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher.

In re Fine, 837 F2d 1071, 1075, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988) (quoting W.L. Gore & Assoc. v. Garlic, Inc., 721 F.2d 1540, 1553, 220 U.S.P.Q. 303, 312-13 (Fed. Cir. 1983)).

For the foregoing reasons, it is respectfully submitted that the invention defined by Claims 3-5, 8-9, 12-13, 16-17 and 19 would not have been obvious and withdrawal of the rejection of these claims under 35 U.S.C. § 103 is believed in order and courteously requested.

In view of the foregoing, it is apparent that none of the cited references, either singularly or in any combination, teach, suggest, or render obvious the unique combination now recited in pending Claims 3-5, 8-9, 12-13, 16-17 and 19. Accordingly, it is respectfully requested that the rejections of these claims under 35 U.S.C. § 103(a) be withdrawn.

**c. Rejection of Claims 6 and 7 under 35 U.S.C. § 103(a)**

Claims 6 and 7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ricks, US Patent No. 4,759,139 as modified by Rubin, U.S. Patent No. 4,476,381 as applied to Claim 2 and further in view of Neeley, U.S. Patent 5,153,416. The Examiner states Neeley '416 discloses a patient identification bracelet that includes a multiplicity of openings for receiving the end of a strap.

In response, in order to expedite the prosecution of the subject patent application, Applicant has cancelled Claims 2 without prejudice or disclaimer and incorporated all of the features of cancelled Claim 2 into Claim 1. The rejection of Claims 6 and 7 over the combination of Ricks '139 and Rubin '381 as applied to Claim 2 in view of Neeley '416 is therefore moot.

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Claim 6 has been amended, depends upon Claim 4, and therefore has all the limitations of Claims 3 and 4, and defines "a strap having an end and an opposite end, a portion of a first end of the member of the identification device having a slot and a portion of a second end of the member of the identification device having a slot, the slot of the first end of the member selectively receiving the end of the strap, the slot of the second end of the member selectively receiving the opposite end of the strap so that a combination of the member of the identification device and the strap is coupled to the infant article when the end of the strap is coupled to the opposite end of the strap". Support for the amendment of Claim 6 is found in the Specification (pages 13 and 14) and in the Drawings (see Figs. 1, 1B, 3 and 3A). Claim 7 has been amended, depends upon Claim 6 and more clearly defines the feature "the combination of the strap of the identification device and the member of the identification device is coupled to the infant". Support for the amendment of Claim 7 is found in the Specification (pages 13 and 14) and in the Drawings (see Figs. 3 and 3A). Clearly, Ricks '139 does not teach or suggest Applicant's identification device and strap combination. Rubin's '381 bracelet is a combination of a clasp (which is an integral portion of the bracelet portion having a label) and the clasp receives only one end of the bracelet portion. Rubin '381 does not teach or suggest Applicant's identification device and strap combination, where the identification device has two ends with slots in each one of the ends, and each one of the slots selectively receives each one of the ends of the strap, with the strap coupled to the infant article when the end of the strap is coupled to the opposite end of the strap. In fact, Rubin's '381 bracelet is "a conventional wrist bracelet" (col. 5, line 46) with the label affixed to the bracelet, the label having an adhesive backing (col. 5, lines 45-46) and a different label with information corresponding to the information on the label of the wrist bracelet being affixed to a specimen container (col. 6, lines 14-15). Neeley '416 has similar features as defined by Rubin '381,

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namely a bracelet with a label proximate to a snap fastener at one end of the bracelet and a plurality of holes along a strap portion of the bracelet so that the snap fastener is coupled to at least one of the plurality of openings along the strap portion of the bracelet. Applicant's strap does not have any openings whatsoever. By contrast Applicant's identification device comprises a combination of a member and a label where the same identification device can be used as a bracelet when a strap is separately attached to the member or as an identification device for an infant article with or without the strap. Clearly neither Ricks '139, Rubin '381, Neeley '416 or a combination of Ricks '139 and Rubin '381 and Neeley '416 are motivated, teach or even suggest Applicant's information device as more clearly defined by the features of Claim 6, Claim 7 and a combination of Applicant's Claims 6 and 7.

For the foregoing reasons, it is respectfully submitted that the invention defined by Claims 6-7 would not have been obvious and withdrawal of the rejection of these claims under 35 U.S.C. § 103 is believed in order and courteously requested.

In view of the foregoing, it is apparent that none of the cited references, either singularly or in any combination, teach, suggest, or render obvious the unique combination now recited in pending Claims 6 and 7. Accordingly, it is respectfully requested that the rejections of these claims under 35 U.S.C. § 103(a) be withdrawn.

**c. Rejection of Claims 11 and 20 under 35 U.S.C. § 103(a)**

Claims 11 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ricks, US Patent No. 4,759,139 as modified by Rubin, U.S. Patent No. 4,476,381 as applied to Claims 1 and 18 and further in view of Lowe et al., U.S. Patent 5,732,495. The Examiner states that even though Ricks' 139 and Rubin '381 do not show the label having information on both

sides, Lowe '495 discloses a tag (label) having a machine readable information on one side and other types of information on the other side of the tag.

In response, Applicant has amended Claim 11 so that Claim 11 now depends upon Claim 3, and Claim 20 now depends on Claim 19, and therefore Claim 11 has all the limitations of Claim 3, while Claim 20 has all the limitations of Claim 19. Claim 11 has been amended to define Applicant's unique feature of "a portion of the opposite side of the label received by the recess of the member of the identification device and enclosed by the retainer comprising at least a visible list of personal information of the infant selected from the group consisting of an infant's name, at least an infant's address, at least a parent's name, a current history of immunizations, at least a medication, at least an emergency telephone number, at least a photograph, at least a finger print and at least a toe print". Claim 20 has been amended to define Applicant's unique features of "providing a portion of the side of the label received by the recess of the member of the identification device and enclosed by the retainer comprising a visible identifier selected from the group consisting of at least a name of an infant, at least a photograph, at least a finger print and at least a toe print; providing a portion of the opposite side of the label received by the recess of the member of the identification device and enclosed by the retainer comprising at least a visible list of personal information of the infant selected from the group consisting of an infant's name, at least an infant's address, at least a parent's name, a current history of immunizations, at least a medication, at least an emergency telephone number, at least a photograph, at least a finger print and at least a toe print; and providing at least a portion of the identification device comprises an identifier selected from the group consisting of a programmable semi-conductor chip, a digital data recording device, a radio frequency identification device and a barcode". Initially, Applicant notes that Lowe '495 is a twist tie article for banding and tagging of merchandise (carrots) which is definitely non-analogous art. The information

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on both sides of the tag in Lowe '495 is not personal information of an infant. Moreover, a twist tie article as disclosed by Lowe '495 would be easily removable by an infant. Lowe's '495 tag is not enclosed by a recess and a retainer. The reliance by the Examiner on the teachings, suggestions and motivations of Ricks' 139 modified by Rubin '381 to reject Applicant's claims based on obviousness has been discussed above (see **Section b**). Applicant respectfully contends the three way combination of Ricks '139, Rubin '381 and Lowe '495 cited by the Examiner would not lead to the features defined by Applicant's identification device without having Applicant's teachings (see **Section b** discussion above).

For the foregoing reasons, it is respectfully submitted that the invention defined by Claims 11 and 20 would not have been obvious and withdrawal of the rejection of these claims under 35 U.S.C. § 103 is believed in order and courteously requested.

In view of the foregoing, it is apparent that none of the cited references, either singularly or in any combination, teach, suggest, or render obvious the unique combination now recited in pending Claims 11 and 20. Accordingly, it is respectfully requested that the rejections of these claims under 35 U.S.C. § 103(a) be withdrawn.

**c. New Claim 21**

New Claims 21 has been added as a dependent claim depending upon Claim 19. Full support for new Claim 21 is found in the Specification (pages 13-16). New Claim 21 defines the further unique features of using the identification device by "providing at least a portion of the member of the identification device comprises an adhesive, a portion of the member of the identification device adhesively coupled to a portion of the infant article; and providing a strap having an end and an opposite end, a portion of a first end of

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the member of the identification device having a slot and a portion of a second end of the member of the identification device having a slot, the slot of the first end of the member selectively receiving the end of the strap, the slot of the second end of the member selectively receiving the opposite end of the strap so that the combination of the member of the identification device and the strap is coupled to the infant article when the end of the strap is coupled to the opposite end of the strap". None of the features of new Claim 21 are shown, described nor suggested in any of the references that have been cited. It is therefore respectfully submitted that new Claim 21 patentably distinguishes over any other relevant art.

Since Applicant previously had three independent claims and seventeen dependent claims of which two dependent claims have been cancelled, no fees are due for the addition of new dependent Claim 21.

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Applicant has now made an earnest attempt to place this application in condition for allowance. Therefore, Applicant respectfully requests, for the reasons set forth herein and for other reasons clearly apparent, allowance of Claims 1, 3-14 and 16-21 and that the application be passed to issue.

Should the Examiner feel that a telephone conference would help to expedite the prosecution of the application, the Examiner is hereby invited to contact the undersigned to arrange for such an interview.

If there are any fees incurred by this Amendment Letter, please notify the undersigned.

Respectfully submitted,



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